REMARKS

This Communication is submitted in response to the May 16, 2007 Final Office Action issued by the United States Patent and Trademark Office. Claims 18-21 are currently pending in the instant application.

Non-Statutory Double Patenting Rejection

In the May 16, 2007 Final Office Action the Examiner maintained the double patenting rejection as previously applied to claims 14-17 based on the judicially created doctrine of non-statutory double patenting as being allegedly unpatentable over claims 1, 25 and 26 of U.S. Patent No. 6,632,180.

Without conceding the appropriateness of the Examiner's rejection and to expedite prosecution of the instant application, applicant concurrently submits an appropriate terminal disclaimer. Accordingly, applicant respectfully submits that the non-statutory double patenting rejection is now moot. Applicant's representative apologizes for the apparent inadvertent failure to include the terminal disclaimer in the previous response and for any inconvenience this omission may have caused the Examiner.

Rejection of Claims Under 35 U.S.C. § 103(a)

In the May 16, 2007 Final Office Action, the Examiner maintained the rejection of the claims under 35 U.S.C. § 103(a), again applying a 1978 reference by F. Gilbert McMahon ("McMahon"). The Examiner also maintained the rejection of the claims under 35 U.S.C. § 103(a), again combining McMahon with a 1998 article by John H. Laragh ("Laragh"). Applicant respectfully traverses these rejections.

Claims 18 and 19 are the only currently pending independent claims and recite, respectively:

A method of treating a hypertensive subject having a normal to above normal PRA level comprising:

A. administering to the subject or instructing the subject to take a low dose of an R drug;

B. after step A, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take an increased dose of the R drug;

C. after step B, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take, instead of the R drug, a low dose of a V drug; and

D. after step C, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take an increased dose of the V drug.

* * *

A method of treating a hypertensive subject having a normal to below normal PRA level comprising:

A. administering to the subject or instructing the subject to take a low dose of an V drug;

B. after step A, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take an increased dose of the V drug;

C. after step B, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take, instead of the V drug, a low dose of a R drug; and

D. after step C, measuring the subject's BP and if the subject's BP is not controlled, administering to the subject or instructing the subject to take an increased dose of the R drug.

Applicant respectfully submits that the cited references taken together or alone, do

not disclose, teach or suggest applicant's presently claimed invention which is directed, *inter alia*, to utilizing PRA measurements to guide a specific course of treatment for hypertension. This course of treatment is designed, *inter alia*, to utilize monotherapy to achieve full correction of hypertension in the vast majority of patients.

The McMahon Reference

The Examiner again stated that McMahon teaches that some clinics routinely test patients for renin activity, that high renin patients can be administered an R drug alone, and that low renin patients can be administered a V drug alone. The Examiner acknowledged that McMahon further teaches that when one drug does not appear to be working, a second drug of a second type can be added to the treatment regimen and that these drugs can be titrated to effect.

In response, applicant notes that while McMahon suggests that a few clinics may have classified subjects based on renin levels, the reference does not suggest that those clinics used renin measurements to direct the specific course of treatment recited in the pending claims. More specifically, pending independent claim 18 relates to a method where subjects having a normal to above normal PRA level (1) start by taking a low dose R drug; (2) then take a higher dose R drug if BP is not controlled; (3) then switch to a V drug if BP is still not controlled; and (4) then take a higher dose of a V drug if BP is still not controlled. Pending independent claim 19 recites a method where subjects having a normal to below normal PRA level (1) start by taking a low dose V drug; (2) then take a higher dose V drug if BP is not controlled; (3) then switch to an R drug if BP is still not controlled; and (4) then take a higher dose of an R drug if BP is still not controlled.

McMahon does not suggest this specific course of treatment and indeed affirmatively teaches away from the presently claimed invention in several important respects.

First, McMahon teaches away from the presently claimed invention by clearly stating that "the Joint National Committee ("JNC") and the vast majority of physicians usually begin treatment of hypertensive out-patients with a diuretic" without first assessing PRA levels. As previously pointed out by the Examiner, McMahon urges his readers to "Treat the hypertension!" -- "Don't treat the renin level!" (*See* McMahon p. 4.) In this respect, McMahon teaches away from the presently claimed invention since McMahon does not recognize that a course of treatment should begin with an initial measurement of a subject's PRA, much less the specific course of treatment recited in the pending independent claims that follows an initial PRA measurement.

Second, even if a few clinics had classified subjects based on initial renin measurements, McMahon does not suggest in any way that those baseline renin levels were ever used to direct a course of treatment consistent with the methods recited in the pending claims. Instead, McMahon teaches away from the presently claimed invention by stating that "[s]hould the patient have high renin essential hypertension, it is more apt to be severe rather than mild and therefore likely to require two or three drugs, one of which would likely be a renin-reducing agent such as a beta-blocking or adrenergic-blocking agent." (*See* Id.) In sharp contrast, the specific methods recited in the pending independent claims do not direct the simultaneous use of R and V drugs. McMahon goes on to state that "[s]hould a patient have mild essential hypertension and should he be given diuretics, his poor clinical response would lead to the addition of other agents." (*See* Id.) (Emphasis supplied.) Thus, McMahon teaches that other drugs should be added to the current treatment regime. In sharp contrast, the pending claims do not direct the use of multiple drugs for treating hypertension, especially where both R and V drugs are administered at the same time. Instead, methods according to the pending claims allow for the use of monotherapy to achieve full correction of hypertension for a large majority of

patients.

Third, McMahon also teaches away from the present invention by urging his readers to follow the JNC recommendations summarized in Table 1 which describes the JNC Stepped-Approach. As shown in Table 1, if there is an insufficient response to the Step 1 drug, a drug from Step 2 should be added. McMahon further states that "[w]hen a patient fails on one Step 2 drug, another Step 2 drug should ordinarily be tried before proceeding to Step 3." Step 2 drugs include V drugs (e.g., prazosin) AND R drugs (e.g., clonidine) (*See* McMahon p. 5.) Since McMahon teaches that a Step 2 drug should be added to a Step 1 drug, the reference clearly teaches away from the presently claimed invention which does not direct the use of additional drugs for treating hypertension, especially where both R and V drugs are administered at the same time.

The Examiner is correct in pointing out that McMahon states that "there is a faction among clinicians that advocates the initial measurement of renin" and "the use of renin as a guide to medication." As demonstrated above, however, McMahon does not disclose, teach or suggest how that initial renin measurement can be used to direct a specific course of treatment consistent with the methods recited in the presently pending claims.

The Laragh Reference

The Examiner also rejected the claims as obvious over McMahon in view of Laragh. The Examiner took the position that Laragh discloses a threshold level of 0.65 ng/ml/hr and thus cures this deficiency in McMahon. A careful review of Laragh, however, confirms that the reference, like McMahon, does not disclose the specific course of treatment recited in the presently pending claims.

More specifically, Laragh does not disclose, teach or suggest a course of

treatment based on an initial PRA measurement, followed by administration of a V or R drug based on that PRA measurement, followed by upward titration of the V or R drug if hypertension persists, followed by a switch from V to R or R to V (as the case may be) if hypertension still persists, followed by upward titration of the recently introduced V or R drug if hypertension continues to persist.

For the reasons given above, applicant maintains that McMahon and Laragh, taken together or alone, do not disclose, teach or suggest the presently claimed invention. Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a).

Conclusion

In view of the foregoing, applicant respectfully requests that the Examiner reconsider and withdraw the rejections raised in the May 16, 2007 Final Office Action and allow the presently pending claims, namely claims 18-21.

No fee other than the fee for a Three-Month Extension of Time and the fee associated with filing a Terminal Disclaimer are believed to be necessary in connection with the filing of this Communication. If any additional fees are deemed necessary by the Examiner, applicant hereby authorizes such fee to be charged to Deposit Account No. 50-0540.

If a telephone interview would be of assistance in advancing prosecution of this application, applicant's undersigned attorney respectfully requests that the Examiner telephone him at the number provided below.

Respectfully submitted,

Dated: November 15, 2007

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